

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

MARK BROCKHAUS,

Plaintiff,

v.

**O'REILLY AUTOMOTIVE STORES
INC.,**

Defendant.

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Case No. 1:24-cv-00489-HAB-SLC

OPINION AND ORDER

Defendant O'Reilly Automotive Stores Inc., removed this case here from the Allen County Superior Court on November 19, 2024, alleging diversity of citizenship as the basis for jurisdiction under 28 U.S.C. § 1332. (ECF 1). Subject matter jurisdiction is the first issue that must be addressed, *Baker v. IBP, Inc.*, 357 F.3d 685, 687 (7th Cir. 2004), and thus, the Court raises the issue *sua sponte*, pursuant to Federal Rule of Civil Procedure 12(h)(3).

Defendant's diversity allegations are lacking in one respect as to Plaintiff. Defendant alleges that "Plaintiff is believed to be a citizen of Indiana." (ECF 1 ¶ 8 (emphasis added)). But "[a]llegations of federal subject matter jurisdiction may not be made on the basis of information and belief, only personal knowledge." *Yount v. Shashek*, 472 F. Supp. 2d 1055, 1057 n.1 (S.D. Ill. 2006) (collecting cases); *see also Am. 's Best Inns, Inc. v. Best Inns of Abilene, L.P.*, 980 F.2d 1072, 1074 (7th Cir. 1992); *Ferolie Corp. v. Advantage Sales & Mktg., LLC*, No. 04 C 5425, 2004 WL 2433114, at *1 (N.D. Ill. Oct. 28, 2004).

Further, Defendant alleges that it "is a citizen of Missouri, with its principal place of business located at 233 S Patterson Ave, Springfield, MO 65802." A corporation is considered a citizen of the state by which it is incorporated and the state where it has its principal place of

business. 28 U.S.C. § 1332(c)(1); *see also* *N. Trust Co. v. Bunge Corp.*, 899 F.2d 591, 594-95 (7th Cir. 1990). Defendant has failed to provide its state of incorporation.

Therefore, Defendant is AFFORDED to and including December 23, 2024, to file a supplemental jurisdiction statement that adequately alleges the parties' citizenship. *See Chase v. Shop 'N Save Warehouse Foods, Inc.*, 110 F.3d 424, 427 (7th Cir. 1997) (stating that the party seeking to invoke federal diversity jurisdiction bears the burden of demonstrating that the requirement of complete diversity has been met).

SO ORDERED.

Entered this 16th day of December 2024.

/s/ Susan Collins
Susan Collins
United States Magistrate Judge